S.B.CRIMINAL MISC. PETITION NO.494/2007
(Mohd.Ali & Ors. Vs. State of Raj. & Anr.)

Date of order : : 18.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.M.A.Siddiqui, for the petitioners.

Heard learned counsel for the petitioners.

This misc. Petition under Section 482 Cr.P.C. Has been filed by the petitioners for quashing the criuminal proceedings pending against them before the court of learned Additional Chief Judicial Magistrate, Nagaur in criminal case No.78/2005 for offence under Section 498-A and 406 IPC.

In the instant case, cognizance has been taken and charges have already been framed.

Learned counsel for the petitioner states that no incident as alleged in the complaint has happened or taken place in Nagaur, as such, no cause of action has arisen at Nagaur and learned Magistrate has no jurisdiction to try the case. However, learned Magistrate is proceeding with the trial which is bad in eye

of law. Therefore, the criminal proceeding is liable to be quashed.

I have considered the arguments advanced by learned counsel for the petitioner and also gone through the order impugned. The objection of jurisdiction could have been raised before the learned Magistrate under chapter (xiii) of the Code of Criminal Procedure.

I do not find any good ground to quash criminal proceeding while exercising power under Section 482 Cr.P.C.

However, since the question of jurisdiction has not been raised in the trial court. The petitioners are free to raise this question before the trial court regarding Section 177, 178, 179 Cr.P.C. in which this case falss. Learned trial court is directed to decide the question first, whether trial court has jurisdiction to try such cases or not before proceeding further.

With the aforesaid observations and directions, this misc. petition is disposed of.

(KRISHAN KUMAR ACHARYA), J.

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